

[SE] Market Court Bans Pokémon-Rap

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During the spring and summer of 2000 the Swedish national terrestrial channel TV4 broadcast more than ten programmes from the very popular children's series "Pokémon". When an episode was finished - and the message "to be continued" had been shown - the viewers were requested to keep their seats: "Don't leave yet. Now follows the Pokémon-rap". In this rap a selection of characters from the series are presented and the message "Gotta catch' em all" is repeated several times. When the rap is finished the programme ends with a billboard and the "Pokémon song".

The Swedish Broadcasting Commission found in a decision in May last year that the "Pokémon-rap" was designed in such a way that it appeared to be an advertisement for the "Pokémon" characters. This was in breach of several provisions of Swedish broadcasting regulation - placement of advertising etc. The Commission consequently asked Länsrätten (the County Administrative Court) to fine the company SEK 200,000 (USD 20,000). That case is still pending.

In Sweden TV-commercials targeted at children under the age of twelve are prohibited. The question of whether or not the "Pokémon-rap" is to be regarded as such an advertisement is a matter for the Consumer Ombudsman and Marknadsdomstolen (the Market Court). The Ombudsman brought the case before the Court, which issued a preliminary injunction last June. It is this case that has now been closed.

The Market Court found (March 2001) that the rap is a separate and strictly commercial part of the programme. The "Pokémon-rap" is an advertisement for the cards as well as for other products related to the "Pokémon" characters. The Court further found that the broadcaster had contributed significantly to the marketing of "Pokémon" related products. Consequently, in accordance with the provisions in the Swedish Market Act, the broadcaster in question - national commercial TV-channel TV4 - was prohibited from broadcasting the "Pokémon-rap". If the company breaks this ban a fine of SEK 200,000 (USD 20,000) may be imposed.

Judgement of the Market Court (DOM) 27 March 2001, 2001:8

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